IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

WP(C).No. 8047 of 2007(G)

PETITIONER:

MOIDEENKUTTY, S/O.MOHAMMED,
AGED 35 YEARS, MUNDANTHODI HOUSE,
VATTALLOOR P.O., MAKKARAPARAMBA,
MALAPPURAM DISTIRCT.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS:

1.THE REVENUE DIVISIONAL OFFICER,
PERINTHALMANNA.

2.THE DISTRICT COLLECTOR, MALAPPURAM.

3.THE STATION HOUSE OFFICER,
KOLATHUR POLICE STATION.

4.THE MOORKKANAD GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY,
MOORKKANAD, MALAPPURAM DISTRICT.

5.STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, TRIVANDRUM.

R1 TO R3 & R5 BY GOVT. PLEADER SMT.T.B.RAMANI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE,J.

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W.P.(C)No.8047 of 2007

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Dated: 22nd March, 2007

JUDGMENT

Even though Mr.Sunny Mathew, counsel for the petitioner was very persuasive in his submissions, I do not think that this court will be justified in view of the facts disclosed from the statement dated 22.3.2007 filed by the Government Pleader in invoking this court's extra-ordinary jurisdiction under Article 226 of the Constitution of India for directing immediate release of the vehicle. But I do find some force in the submission of the counsel that in view of the judgment of this court in **Moosakoya v. State of Kerala** (2005(4) KLT 331), the District Collector will be bound to release the vehicle pending adjudication. The petitioner is directed to file an application for interim release of the vehicle and the load before the District Collector. The District Collector will notice that this court in many other matters have directed interim release of the vehicle directing the owners of the vehicles to remit Rs.10,000/- by cash and also filing an undertaking in the form of an affidavit to the effect that the vehicles in good running condition will be produced if and when directed in that regard by the District Collector or any other competent authority. The District Collector will consider the application to be submitted by the petitioner and pass orders within

seven days of receiving the application taking due notice of the principles laid down by this court in **Moosakoya v. State of Kerala** (supra).The petitioner is also permitted to produce a copy of the order in Crl.M.C.No.649 of 2007 before the District Collector so that the said order can also be considered by the District Collector.

The Writ Petition will stand dismissed subject to the above directions.

srd **PIUS C.KURIAKOSE, JUDGE**

Issu copy today itself.